

Judge Manuel D. Leal

Practice and Procedure Guide



**United States Bankruptcy Court
Courtroom No. 600, Sixth Floor
Houston, Texas 77002
713.250.5780**

<http://www.txs.uscourts.gov/schedules/mdl/home.htm>

**Anita Ainsworth, Case Manager
713.250.5421
713.250.5562 (fax)**

Contact with Judge/Case Manager/Law Clerks	4
Filing Court Documents	5
Notice Requirement	5
Motion Practice	5-7
Emergency Matters	7
Expedited Consideration	8
Open Court Hearings	8-10
Motions for Use of Cash Collateral	10
Courtroom Hearings on Applications For Preliminary Use of Cash Collateral or Temporary Restraining Orders	10-11
Courtroom Etiquette	11-12
Motions for Relief from the Automatic Stay	12
Adequate Protection	13
Rule 4001 Agreements	13
Proposed Agreed Orders	13-14
Proposed Orders	14
Property Description	14
Settlements and Compromises	15
Default Judgments	15-16
Disclosure Statements in Chapter 11 Cases	16-17
Adversaries	17
Witness Time Sheets and Exhibits Statements	17-18
Fee Applications	18
Local Rule 1 and Pro Hac Vice Applications	19

BASIC RULE

This court strictly adheres to the U.S. Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the Local Rules of both the United States District Court and the United States Bankruptcy Court for the Southern District of Texas. This guide in no way alters the substantive law nor procedural rules codified in the above statutes and rules. The guide's purpose is to provide direction for the bankruptcy practitioner who appears regularly in this court.

CONTACT WITH JUDGE, CASE MANAGER, LAW CLERKS

By law, ex parte communication with the Judge is prohibited.

Counsel, interested parties and the Court are governed by Fed.R.Bankr.P. 9003 regarding communications with the Judge which states:

Except as otherwise permitted by applicable law, any party in interest and any attorney, accountant, or employee of a party in interest **shall refrain from ex parte meetings and communications with the bankruptcy judge** concerning matters affecting a particular case or proceeding.

For scheduling and procedural matters attorneys may call Judge Leal's case manager, Ms. Anita Ainsworth 713.250.5421.

All correspondence regarding cases or proceedings pending before Judge Leal should be directed to:

U. S. Bankruptcy Clerk
515 Rusk Avenue
Houston, Texas 77002

LAW CLERK CONTACTS

Counsel and the public are not permitted to contact the law clerks. At the Court's direction, law clerks may contact counsel as the need arises. However, please refrain from engaging the law clerk in discussions regarding legal matters which are not the subject of the call.

FILING COURT DOCUMENTS

Pursuant to Fed R. Civ. P. 5(e) and Local Rules 5005 and 9004, Court documents such as pleadings and memorandum can be filed only with the Clerk's office. Therefore, Judge Leal is not able to consider any matter that has not been first filed and processed through the Clerk's office. Pleadings sent directly to chambers without a file stamp cannot be considered. This unfortunately will cause a delay in the processing of the item.

Normally, pleadings requesting relief from the Court must await the required time period under the rules for receipt of responses. However, any motion or application requiring immediate attention may be brought to the attention of the Case Manager and clearly captioned as an "Emergency" or "Expedited" matter. If the Court deems the matter not an emergency, the pleading will be returned to the bankruptcy clerk's office to be diaried for the requisite period of time under the rules and then, resubmitted to chambers, along with any responses or objections filed during that time.

NOTICE REQUIREMENT

The Bankruptcy Code requires that many matters be ruled upon by the judge only "after notice and a hearing." That phrase is defined in 11 U.S.C. § 102 and further interpreted in Local Rule 9007. Any party requesting or opposing relief from the Court should carefully follow the Bankruptcy Code and relevant rules, particularly the Local Rules, to meet the notice and service requirements. Judge Leal usually will not be legally able to grant any relief if the notice prerequisites have not been met.

MOTION PRACTICE

Motions are ruled in chambers on **submission day** as defined by our local rules. Therefore, normally, no open court hearing will be schedule for any motion unless there is opposition.

Please be aware that because of local rules concerning **submission** the Clerk's office does not upon receipt of a motion immediately forward it to Judge Leal's chambers. Rather, the Clerk's office places the motion in a diary until **submission day** to await responses, objections, legal memorandums or briefs. As defined by Local Rule 9007 **submission day** is the twentieth day after the date of filing, plus three days for mailing. On **submission day** the Clerk's office sends all unopposed pleadings, along with any legal memorandums to Judge Leal's chambers for rulings. If opposition is filed, the Case Manager will schedule an oral argument hearing.

A response or an answer in opposition to a motion or application should be filed directly with the Clerk's office no later than **submission day**. Otherwise, under the local rules the motion will be treated as unopposed.

Please be aware that the process of "docketing" any response or pleading takes time. Therefore, even though a response has been timely filed, it may be delayed by the docketing process and therefore not timely submitted to chambers along with the motion it addresses. Consequently, parties are advised to file their responses as early as possible within the allotted time. Delivery of courtesy copies to chambers is discouraged but such deliveries will be accepted if a party feels that its response may not otherwise be timely considered. However, a courtesy copy accompanied by a cover letter may either be delivered to the Case Manager in the Clerk's Office on the 5th Floor or faxed to her at 713.250.5562.

Unopposed motions should contain a clear statement that all counsel concur and must be submitted with a proposed unopposed order. Signatures of all concurring counsel should be obtained on the proposed order. The Court reviews the motion for proper notice and service of the motion.

Please refer to Local Rule 7007 which, although directed at adversary proceedings, is generally followed for motions or applications.

Motions, applications, answers, and responses in opposition must include all relevant facts. **Legal authorities must be cited!**

Once an unopposed motion is presented to Judge Leal, it is his policy to rule on the matter in chambers within one working day, relying only on the pleadings, law and legal memoranda. As earlier stated, if the motion is

opposed, the case manager will calendar an open court oral argument hearing and notify the moving party of its date and time for immediate notification by movant to all parties.

EMERGENCY MATTERS

Matters requiring immediate consideration by the Court should be brought to the attention of the Case Manager, and should be clearly captioned as an "Emergency" matter or as an "Expedited" one. The Case Manager will coordinate their processing.

A pleading labeled as an "emergency" will be immediately brought to the judge's attention by the Clerk's office. If the judge determines that the matter is not an emergency, the movant will be notified and the matter will be scheduled for consideration pursuant to normal **submission day** rules. Otherwise, the judge will rule on the matter or issue further instructions.

In considering any type of emergency relief special care is taken by the Court to assure that no party in interest is being denied adequate notice and a reasonable opportunity to respond.

Parties seeking emergency consideration with regard to any matter brought under motion should refer to Local Rule 9013(m). The local rules require that movants notice and serve the substantive motion and should add to the notice language a statement to the effect that emergency consideration has been requested which, if granted, could reduce the time for responding to the motion. [This procedure should also be followed if a party seeks to shorten the response time.] A separate motion requesting a hearing, if desired, must be filed along with the substantive motion.

EXPEDITED CONSIDERATION

Should a matter require immediate attention prior to normal **submission day** Judge Leal looks to see if at least the following have been satisfied:

1. Has the substantive motion been served and notices issued in the manner required by the Local Rules? Add a statement in the notice to the effect that a request to shorten the response time has been made and, if granted, would shorten the response time to "X" days. ("X" being the amount of response time requested).
2. Is there a full explanation in the substantive motion why there is a need for an earlier consideration?
3. Has there been a request that the notice period be shortened? Movant must indicate the length of time the normal response time is to be shortened.

Unless there is a reason to schedule an open court hearing, expedited or emergency matters are normally considered in chambers on written pleadings, briefs, responses, etc.. If counsel want an immediate open court hearing, please contact Judge Leal's case manager Ms. Anita Ainsworth at 713.250.5421.

OPEN COURT HEARINGS

There are two kinds of open court hearings:

1. Oral arguments only hearing, that is, no evidence is allowed to be presented;
2. Evidentiary hearing which requires completed witness time sheets.

To schedule either type of an open court hearing with Judge Leal, attorneys may call Judge Leal's case manager, Anita Ainsworth, at 713.250.5421. Ordinarily, oral arguments are heard every Tuesday. Evidentiary hearings are scheduled by availability of courtroom time.

Oral argument only hearings. Motions are normally set for oral argument hearing only if there is opposition or a request for hearing has been filed. Otherwise, motions are ruled on **submission day** in chambers. Oral argument only hearings are restricted exclusively to attorneys. Evidence will not be permitted to be introduced during this type of hearing. Should the presentation of evidence be required, then an evidentiary hearing will have to

be scheduled at a time convenient to everyone as described in the next section.

Evidentiary hearings. In order to schedule an evidentiary hearing, witness time sheets containing time estimates must be completed and delivered to the case manager by the parties. A sample witness time sheet may be seen as Exhibit A to this practice guide. Without these witness time sheets, it is very difficult to schedule an evidentiary hearing by the case manager. These witness time sheets contain time estimates which are used by the case manager in determining the amount of courtroom time to be reserved. The case manager tries to accommodate the parties and is available for assistance in completing the witness sheet.

Normally, an oral argument only hearing will be scheduled prior to an evidentiary hearing primarily to assist the Court in organizing and in narrowing the specific issues on which evidence will be presented. Movant should contact the Case Manager for a pre-evidentiary hearing date. Movant is responsible for notifying all interested parties of the hearing date and time.

General requirements. There are several requirements applicable to both oral argument only and evidentiary hearings. Counsel for the movant will be notified by the Clerk's office of any matter set for open courtroom hearing. The clerk's office will not issue hearing notices other than to movant. Movant is responsible for immediately notifying all other interested parties of the hearing time and date and filing a certificate of service of the notice of hearing with the clerk's office. The certificate of service must reflect the names and addresses of the notified parties.

A party requesting an open court hearing is required by Local Rule 9013(j)(1) to file a certificate of conference stating that a conference was held with opposing parties, a good faith effort was made to resolve any differences and that no agreement was reached (or, alternatively, that it was not possible for the required conference to be conducted). Failure to include this certificate is sufficient cause to deny the hearing request.

If you file a pleading less than 2 business days prior to the scheduled hearing, please deliver a courtesy copy to the courtroom deputy or case manager.

An attorney with full knowledge and authority must attend all settings.

MOTIONS FOR USE OF CASH COLLATERAL

Motions for use of cash collateral must be filed with the Clerk's office. The Clerk's office will place the motion in a diary for 15 days and then deliver the motion to chambers, along with any objections, responses, and requests for hearing. On the other hand, if movant wants an open court hearing, please see the section below concerning court hearings for cash collateral requests.

Pursuant to Fed.R.Bankr.P. 4001(b)(2), Judge Leal requires that the movant make a showing of immediate and irreparable harm to the estate in order to use cash collateral on a preliminary basis.

COURTROOM HEARINGS ON APPLICATIONS FOR PRELIMINARY USE OF CASH COLLATERAL OR TEMPORARY RESTRAINING ORDERS

Applications for preliminary use of cash collateral or temporary restraining orders can be scheduled for an immediate court hearing by the Case Manager only after counsel's affirmation that opposing parties have been contacted and are available for an immediate hearing. This Court's policy is to conduct such hearings within 24 hours of filing.

If a hearing within 24 hours is not required or desired then the relief may be sought in the same manner as an expedited matter (see infra) where the time for response is shortened.

This Court will not entertain an ex parte presentation of an application for a temporary restraining order unless it meets the prerequisites of Fed. R. Civ. P. 65(b).

COURTROOM ETIQUETTE

Judge Leal follows the Local Rules of the United States Bankruptcy Court which incorporate Local Rule 2 of the United States District Court entitled "Courtroom Procedure". Judge Leal strictly applies this rule in dealing with courtroom protocol.

In addition, attorneys should comply with the following:

1. Counsel must not interrupt fellow attorneys.
2. Upon entry into the courtroom, all parties shall be seated. Attorneys are responsible for informing their clients and witnesses of this requirement. Standing is a signal to the Judge that the party wishes to address the Court.
3. Please do not approach and speak with any member of the courtroom staff while court is in session on any matter without express permission of the Judge. Courtroom staff are involved in recording the proceeding and cannot be interrupted. Approaching the courtroom staff while court is in session stops the proceeding. However, counsel may write and deliver a note to a member of the staff explaining the need to communicate with the Court.
4. Counsel wishing to use the blackboard or easel in the courtroom are responsible for coordinating this prior to the actual hearing.
5. Objections must be made by rising, stating "I object" and giving specific grounds for the objection.
6. Please mark exhibits for identification prior to the hearing. Courtroom personnel do not mark exhibits.
7. Where possible, please stipulate as to the admissibility of those exhibits over which there are no challenges, other than the weight and credit to be given them.
8. Documents to be introduced into evidence must be exchanged between counsel prior to the hearing.
9. Please be aware that any noise is disruptive to fellow attorneys and the presentation of the case, as well as to the court. Attorneys should refrain from any conversations in the courtroom while court is in session. Court sessions are recorded on an electronic recording system which is extremely sensitive to background noise. Attorneys are instructed to please convey this rule to their clients and witnesses.

Attorney conference rooms are available for private discussions.

10. Please contact courtroom personnel prior to commencement of the daily docket if a conference room is needed to discuss a case or settlement.

MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY

Counsel are instructed to carefully follow the Bankruptcy Code and Rules when filing motions for relief from the automatic stay, especially Local Rule 4001. The Clerk's Office will issue the hearing date and time. Hearings are routinely scheduled for the first, second or fourth Mondays of the month.

Ordinarily, only one evidentiary hearing will be conducted. Judge Leal treats preliminary hearings as final hearings. Please refer to the Local Rules and the Bankruptcy Code.

An order may be presented to the Court in the form of an unopposed order. (See Exhibit B.)

ADEQUATE PROTECTION

Please be aware that when a party seeks adequate protection of its interest Judge Leal will be expecting evidence describing the interest, its value, and the amount that the value is decreasing. The burden of proof on providing adequate protection is set out in 11 U.S.C. § 362(g).

RULE 4001 AGREEMENTS

Pursuant to Fed.R.Bankr.P. 4001 and Local Rule 4001, any agreements must be circulated to creditors, as the Court directs. Judge Leal usually requires

that the unsecured creditors be fully informed of the terms and conditions of any agreement through either the original motion or in a subsequent motion to approve agreed order. If movant seeks to limit notice, movant must detail the reasons for such limitation.

PROPOSED AGREED ORDERS

Proposed agreed orders should be filed directly with the Clerk's Office and not delivered directly to Judge Leal's chambers as this only delays processing.

Proposed agreed orders should contain the signature of all counsel. Absence of signatures by counsel will be deemed to constitute disagreement.

Attach a "green sheet", available from the Clerk's office, to the proposed agreed order. A statement should be included as to whether the agreement is being filed after a hearing, on the request of the Court, or before a hearing is held. A copy of the motion that is the subject of the proposed agreed order may also be attached.

Agreements that attempt to dispose of any asset without prior full disclosure and reasonable opportunity to object given to all creditors and equity security owners will not be approved.

PROPOSED ORDERS

A green sheet, Exhibit E , should be attached to all proposed orders. This will help facilitate processing. Otherwise, the order is inherently delayed because of research and preparation of the order by the Clerk's office.

PROPERTY DESCRIPTION

Problems have occurred in the past concerning orders dealing with property which lack description of the property. Therefore, proposed orders

dealing with property must adequately describe the property in the body of the order itself and should not refer to a document outside of the order for the property description. Where applicable, merely listing the address of the property is sometimes adequate.

Examples of what is **not** permitted as a property description:

Attaching a copy of an automobile certificate of title to the order or motion as an exhibit.

Attaching a copy of a deed of trust or other instrument to the order or motion as an exhibit.

If the attorney chooses to include an exhibit, it is acceptable as long as the description of the property is provided on the face of the proposed order.

SETTLEMENTS AND COMPROMISES

Settlements are greatly encouraged.

Court approval of compromises and settlements is governed by Fed.R.Bankr.P. 9019 which requires notice to the debtor and all creditors. Factors included in a motion to compromise controversy are as set forth in Protective Committee v. Anderson, 390 U.S. 414 (1968) as follows:

1. The probabilities of ultimate success should the dispute be litigated;
2. An estimate of the complexity, expense, and likely duration of the litigation if not settled;
3. The difficulties of discovery and collecting on any judgment resulting from the litigation;
4. A comparison of the terms of the compromise with the likely rewards of litigating the dispute;

5. Whether the compromise is in the best interest of the estate;
and
6. All other factors relevant to a full and fair assessment of
the wisdom of the proposed compromise.

The proposed order must state what each side is giving up and receiving.

DEFAULT JUDGMENTS

Motions for default judgment are governed by Fed.R.Bankr.P. 7055 and Local District Court Rule 13B. Prior to a judgment by default being granted, there must be an **entry** of default. These can be combined in one proposed order. (See Exhibit C.)

Motions for **entry** of default or judgment by default may be considered at the initial pre-trial conference if the requirements of the Local District Court and Bankruptcy Rules have been satisfied.

Bringing a proposed order to the hearing for immediate entry is encouraged.

DISCLOSURE STATEMENTS IN CHAPTER 11 CASES

Judge Leal ordinarily requires the proponent to include the following as a minimum in the disclosure statement:

1. Source of information for the disclosure statement.
2. Incidents that led to the filing of the chapter 11.
3. Present condition of the debtor while in chapter 11.
4. Description of the available assets and their value.
5. Estimated return to the creditors if the estate were to be liquidated.
6. Anticipated future of the debtor.

7. Identity and experience of the proposed management of the debtor's business.
8. Accounting process used and the identity of the person who furnished the information.
9. The plan.
10. Description of all pending litigation involving the debtor.
11. Tax information.

At the disclosure statement hearing counsel should be prepared to present evidence that the disclosure statement has been properly served pursuant to BR 2002 and contains the required information.

Counsel should bring a proposed order to the hearing for Judge Leal to sign at the conclusion of the hearing. A previously filed proposed order may not yet have reached Judge Leal.

ADVERSARIES

Upon the filing of a complaint, the Bankruptcy Clerk's office will issue an initial Pre-Trial Conference Summons containing the date, time and place of the initial pre-trial conference. Counsel are required to attend. Failure to attend will invoke sanctions pursuant to Fed. R. Civ. P. 16(f).

A Scheduling Order will be issued by the Court at the initial pre-trial conference in compliance with Fed. R. Civ. P. 16. Counsel are to determine the completion dates for discovery, filing of motions, and filing of the Witness Time Sheets and Exhibit Statement. (See Exhibit C.) These dates are to be included in the scheduling order at the initial pre-trial conference. The Clerk's office will schedule the final pre-trial conference date.

WITNESS TIME SHEETS AND EXHIBIT STATEMENT

Time estimates per witness are critical to the scheduling of an evidentiary hearing. An evidentiary hearing cannot be scheduled without witness time

estimates. Please contact Judge Leal's Case Manager for assistance if needed.

Counsel will be provided a copy of the form of Witness Time Sheets and Exhibit Statement used by Judge Leal at the initial pre-trial conference.

It is the responsibility of the plaintiff's attorney to insure that the Witness Time Sheets and Exhibit Statements are filed by the date specified by the Court. Failure to comply timely with this requirement may result in appropriate sanctions.

It is not necessary to provide the Court with copies of the exhibits prior to trial.

A copy of the Scheduling Order is attached to the end of this practice guide. It describes the format and required content of the Witness Time Sheet and Exhibit Statement. (See Exhibit D.)

FEE APPLICATIONS

Upon the filing of a fee application requesting more than \$1,500 in fees, please contact the case manager **Ms. Anita Ainsworth 713.250.5421** to obtain a date and time for a public hearing. Applicant is to immediately notify all entities entitled to notice of the amount requested, hearing date and time.

All pertinent information regarding the substance of the fee application must be sent to all unsecured creditors, all equity interest owners and to other parties in interest entitled to be informed. Please include a clear statement that a court hearing will be held on the fee application and tell them the date, time and location. Interested parties should be informed that they may file objections to the fee application with the Clerk's office and deliver a copy of their objection to the applicant no later than 5 working days before the hearing. In any event, the objecting party can appear and be heard at the hearing. Judge Leal assumes that most creditors do not have bankruptcy attorneys representing them.

A proof of service must be filed with the Clerk's office before the fee applications court hearing indicating the name and address of every entity notified and the date of notification. Bring a copy of the proof of service to

the hearing. Counsel attending the hearing should be prepared to answer any relevant questions about the fee application.

Judge Leal wants to be satisfied that all creditors, particularly unsecured creditors, have been fully informed of all fees being authorized and that they will have been given ample opportunity to object or ask any questions. Counsel are encouraged to bring a proposed order to the hearing for Judge Leal to sign at the conclusion of the hearing.

LOCAL RULE 1 AND PRO HAC VICE APPLICATIONS

This Court observes Local Rule 1 of the U.S. District Court for the Southern District of Texas in requiring attorneys to seek permission of the Judge before appearing as attorneys-in-charge for a party in a matter before this court. Applicant must show that they are currently licensed to practice law, must list the jurisdictions they are admitted to practice in, and must aver that they are in good standing within each jurisdiction's bar. Attorneys who live within the Southern District are required to file an application for admission to practice in this district before or at the time of their Local Rule 1 motion, and to aver to that fact in their application. Attorneys who do not live in the geographic area of this District are required to designate in their application local co-counsel admitted to practice before this Court who can be available on 24 hours' notice to make a Court appearance.

Attorneys who wish merely to make an appearance in Court for a limited purpose, such as attendance at a hearing or hearings on a particular motion or in one particular bankruptcy case, may apply to appear pro hac vice ("for this turn" or "for this one particular occasion"). If an attorney lives outside of the District, the pro hac vice application shall designate local co-counsel admitted to practice before this Court who can be available on 24 hours' notice to make an appearance in Court.

WITNESS TIME SHEET

Debtor :

Case No.

Hearing Date:

Adversary No.

Motion or Adversary:

Witnesses to be called by _____
(name of party)

WITNESS' NAME	TOTAL TIME RESERVED FOR			
	Direct/redirect Examination By:	Cross/recross Examination By:	Cross/recross Examination By:	Cross/recross Examination By:
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

COUNSEL FOR MOVANT

COUNSEL FOR RESPONDENT

DATE

DATE

EXHIBIT A

IN RE:

DEBTOR

MOVANT,

V.

RESPONDENT.

CASE NO.
(CHAPTER)

Came on for consideration [movant's name] unopposed motion for relief from the automatic stay. [Movant's name] attorney represented that, after proper notice and timely service of the motion, there is no opposition to the motion.

Ordered in chambers in Houston, Texas on _____, ____.

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

	§	
	§	
IN RE:	§	CASE NO.
	§	(CHAPTER)
	§	
DEBTOR	§	
	§	
	§	
PLAINTIFFS	§	
	§	
V.	§	ADVERSARY NO.
	§	
DEFENDANTS	§	

DEFAULT JUDGMENT

After having been served with process, _____ has failed to appear to defend this action. Default is ordered.

It is adjudged that _____ recover from _____ : :

- (a) Principal \$
- (b) Attorneys fees \$
- (c) Cost of court;
- (d) Post-judgment interest at % per annum.

Ordered in chambers in Houston, Texas on _____ ,

.

MANUEL D. LEAL
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
	§	CASE NO.
Debtor	§	
	§	
Plaintiff	§	
	§	
	§	
vs.	§	ADVERSARY NO.
	§	
	§	
Defendant	§	

SCHEDULING ORDER

Pursuant to Federal Rules of Civil Procedure 16 and 26, made applicable to Adversary Proceedings by Bankruptcy Rules 7016 and 7026, the following order is made:

1. **DISCLOSURES** required by F.R.Civ.P. 26(a)(1) shall be made by no later than _____.
2. **DISCLOSURE** required by F.R.Civ.P. 26(a)(2) of **EXPERT TESTIMONY** shall be made by no later than _____.
3. **DISCLOSURE** required by F.R.Civ.P. 26(a)(3) of **WITNESSES** and **EXHIBITS** shall be made by no later than _____.
4. **SUPPLEMENTATION OF Rule 26(a) DISCLOSURES** shall be made as soon as material changes are known to the party responsible for the disclosure, but no later than _____.
5. Other **DISCOVERY** must be completed no later than _____.

EXHIBIT D

6. **MOTIONS** to be filed no later than _____.
7. **JOINDER OF PARTIES** to be done no later than _____.
8. **AMENDMENTS TO PLEADINGS** to be filed no later than _____.
9. **JOINT WITNESS WITH TIME ESTIMATES AND EXHIBIT STATEMENTS** are **ORDERED** to be filed with the Court no later than _____.
10. **PROPOSED FINDINGS AND CONCLUSIONS OF LAW** are **ORDERED** to be filed with the Court no later than _____.
11. The **FINAL PRE-TRIAL CONFERENCE** is set for:
_____, at _____ . **M.**
Counsel are **ORDERED** to appear at this pre-trial conference.
12. **TRIAL** is set for _____, at _____
_____.M. at 515 Rusk St., Houston, Texas 77002 in Courtroom 600 on the 6th Floor. Unless otherwise **ORDERED** by the Court please do not bring witnesses as the Court might not commence the taking of evidence on this date. However, counsel and their clients are **ORDERED** to appear.

JOINT WITNESS AND EXHIBIT STATEMENT

Plaintiff is ORDERED to file a WITNESS TIME SHEET AND EXHIBIT STATEMENT for all parties setting forth the matters discussed below. All counsel are ORDERED to cooperate in its preparation. Failure to comply may result in sanctions under Federal Rules of Civil Procedure 16 and 37. If any party fails to cooperate, the cooperating party or parties are ORDERED to timely file a JOINT WITNESS AND EXHIBITS STATEMENT setting forth the name of the non-cooperating party and describing the efforts to obtain that non-cooperating party's cooperation.

- (1) A list containing the names of all witnesses expected to be called during trial.

Witness examination times. Anyone expecting to examine a witness must state the amount of time to be reserved for examining that witness.

The proponent of a witness must state the amount of courtroom time needed for direct examination. The opponent must state the amount of courtroom time needed for cross examination of that witness.

Examination times must be listed by witness.

Example: John Doe.

45 minutes for direct examination.

45 minutes for cross examination by Creditor 1.

20 minutes for cross examination by Creditor 2.

Failure to provide this information may result in counsel's inability to examine such witness for testimony at trial, or to introduce the exhibits at trial or may result in other appropriate sanctions, unless good cause is shown for such failure(s). This does not apply to rebuttal or impeachment witnesses.

- (2) An Exhibit List (form attached) numbering and briefly describing all exhibits to be offered in evidence or referred to in trial. All exhibits must be marked by the

parties for identification prior to trial. (For example "Jones Exhibit 1"). ALL EXHIBITS OFFERED AT TRIAL WILL BE ADMITTED INTO EVIDENCE BY AGREEMENT OF COUNSEL except those exhibits specifically disputed in the respective trial statements.

Counsel are to confer at their earliest convenience for stipulations and the exchange of documents to be offered in evidence at the trial. Documents or physical evidence not presented to opposing counsel prior to trial will be inadmissible during trial, only unless they are for rebuttal or impeachment purposes.

Any witness or exhibit not identified in the Joint Witness and Exhibit Statements shall not be admitted during trial except on a showing that the evidence was not previously known to the party, and could not have been discovered by reasonable diligence prior to trial.

SUPPLEMENTAL WITNESS AND EXHIBIT STATEMENT

If additional witnesses are required by any party after the filing of a Joint Witness and Exhibit Statement but before the date of the trial, a Supplemental Witness and Exhibit Statement must be filed with the Clerk and served on opposing parties immediately. It must include a statement as to why the additional witness was not disclosed earlier. Whether the witness will be admitted at trial will be determined by the Court in its discretion.

SETTLEMENT

Counsel will report to the Court at the pre-trial conference on the prospects of settlement, which must be explored prior to each pre-trial conference.

SANCTIONS

Failure to obey this Order will result in sanctions being imposed as authorized in Rule 16(f), Fed. R. Civ. P.

The Scheduling Order is APPROVED by:

_____ Plaintiff Counsel's Signature Please print: Name:_____ Address:_____ _____ Phone:_____	_____ Defendant Counsel's Signature Please print: Name:_____ Address:_____ _____ Phone:_____
_____ Counsel's Signature Please print: Name:_____ Address:_____ _____ Phone:_____	_____ Counsel's Signature Please print: Name:_____ Address:_____ _____ Phone:_____
_____ Counsel's Signature Please print: Name:_____ Address:_____ _____ Phone:_____	_____ Counsel's Signature Please print: Name:_____ Address:_____ _____ Phone:_____
_____ Counsel's Signature	_____ Counsel's Signature

Ordered in chambers in Houston, Texas on , .

MANUEL D. LEAL
UNITED STATES BANKRUPTCY JUDGE

Copy Received By:

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

MAIN/ADV NO.	§	DEBTOR
WITNESS:	§	
	§	V.S.
	§	
	§	JUDGE
	§	CTRN STAFF
	§	DATE AT
	§	PARTY'S NAME
	§	ATTY'S NAME
	§	ATTY'S PHONE
	§	NATURE OF PROCEEDING

EXHIBIT LIST

N O	DESCRIPTION	N A R	O F F	O B J	A D N	D A T	Disposition After Trial

(Note: This Exhibit List is to be prepared in advance of the date of trial by counsel to parties and furnished to the Court in duplicate and served on opposing counsel.)